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mine file

cc "CMA" to LMB - General Co

S. Linner

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OIL, GAS & MINING

July 27, 1989

The Honorable James Hansen
United States Congressman
1113 LHOB
Washington, DC 20515

Dear Congressman ~~Hansen~~: Jim,

As per our recent telephone conversation regarding the proposed Nevada Electric Company's subsidiary company, Nevada Electric Investment Company (NEICO) coal lease exchange, I am enclosing a copy of the information sheet from the Bureau of Land Management, Utah State office, which provides some background and considerable insight into the proposed lease exchange and some of the problems inherent with that proposal.

As we discussed, there is presently in place an expedient, effective method of acquiring needed Federal coal leases. This process is handled by the Regional Coal Team (RCT) and is entitled, "Lease by Application".

A great deal of time and effort plus considerable expense was expended by the Bureau of Land Management and members of the RCT, the Utah Division of Oil, Gas and Mining and the Utah Coal Operators to modify the coal leasing procedure to allow the Lease by Application process to be implemented.

The proposed coal lease exchange would circumvent this successful competitive bidding leasing process to unfairly accommodate one company, which would also unfairly enhance their competitive position over other Utah coal operators.

Although the State's resolution specifies that such a lease exchange would not constitute a precedent, it does, in fact, create a precedent which will, without question, be followed by other requests for lease exchanges which, if not granted, will probably result in litigation.

Several Utah coal companies are utilizing this competitive bidding procedure to acquire needed adjacent coal lease properties, i.e., Southern Utah Fuel Company, who recently purchased the Quitchupah coal lease adjacent to their mine near Salina in Sevier County. Cyprus-Plateau Mining Company in Wattis, Carbon County and ARCO-Beaver Creek Coal Company, who operates mines in Carbon and Emery Counties, have lease applications being processed by the RCT. Cyprus' application is scheduled to go to competitive sale sometime in late September or early October. Beaver Creek's application should meet competitive sale scheduling in early 1990. We believe the Quitchupah coal sale and the other two proposed lease sales are sound evidence of a readily available, satisfactory, expedient coal leasing program which obviates the need for special and unfair treatment via the proposed coal lease exchange.

The above concerns are shared by several Utah coal companies and mine managers. In addition to Coastal States who operates Southern Utah Fuel Company in Sevier County and Utah Fuel Company in Carbon County, Amax, who operates Castle Gate Coal Company, and Beaver Creek Coal Company, owned by ARCO, have expressed their concerns and displeasure with the proposed coal lease exchange. In addition to the above Utah coal companies, individual mine managers have also expressed a strong objection and have indicated a willingness to further discuss their concerns with you or your staff by phone. You may reach Mr. Walter Wright at Valley Camp of Utah, Inc. at (801) 448-9471 and Mr. Rick Olsen, Soldier Creek Coal Company at (801) 637-6360.

I am also enclosing a recent copy of a Salt Lake Tribune article dated July 25, 1989, wherein Mr. Charlie Vaughn argues for the lease exchange because Gen Wal will pay royalties and thus the State will receive additional revenues. Of course they will; all coal companies pay royalties on coal mined. He further objects to the in-lieu payment, calling it double payment. Present leasing requirements mandate all successful lease bids to make a bonus payment. For comparison, I am enclosing an excerpt of the Utah 1988 Coal Production Summary published by the Utah Department of Energy, which describes the up-front bonus payment made by Coastal States for the Quitchupah lease.

If Coastal States can be of further assistance to you or your staff, please feel free to contact me at (801) 534-3218.

Sincerely yours,

John M. Garr
Director of Governmental and Public Affairs

JMG/ak/102

enclosures

xc: Congressman Howard Nielson
Governor Norman Bangerter
James Parker
Max Nielsen
Dr. Dianne Nielson
Walter Wright
Rick Olsen

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE

Information sheet concerning Nevada Power and its subsidiary, Nevada Electric Investment Companies (NEICO) proposal to exchange Federal coal leases in the Alton area for new Federal coal leases in the Wasatch Plateau of Central Utah.

BACKGROUND:

--BLM has no legal authority for coal lease exchanges so congressional legislation is required for each exchange.

--NEICO began acquiring Federal coal leases in the Alton Coal Field in 1961, and by 1963, had put together a 10,375 acre Federal lease block of primarily surface minable coal. The leases were issued competitively and the company paid $47,966 in bonus payments.

--Utah International Inc. (UII) held leases on about 16,158 acres of adjoining land. About 8,944 acres of the UII lease block was designated unsuitable for surface mining by the Secretary of Interior in December of 1980. In December of 1986, UII assigned some of its holdings to NEICO. UII retained interest in the "alleged taking" of the unsuitable areas and is in Federal Claims Court for compensation on the losses. A net 7,158 acres of additional Federal coal lease available for mining became NEICO property, making a 17,533 acre lease block.

--UII (the mine operator for the Alton Project) submitted a mining plan on the project in 1982, and a revised mining plan in July 1987. The latest plan calls for recovery of about 110 million tons of surface minable coal in the Alton Project. Federal and State agencies are currently reviewing the mining plan.

--NEICO is in violation of section 3 of the Federal Coal Lease Amendments Act due to its "Alton holdings" preventing it from acquiring additional Federal coal leases. Section 7 issues and possible lease termination would be a concern on the Alton leases in the mid 1990s.

--In December of 1988, Nevada Power acquired the Genwal Coal Company in Central Utah (Emery County) which includes about 418 acres of Federal lease. The Genwal Mine produces about 200,000 tons of underground minable coal per year.

--A large unleased coal block adjoins the Genwal Mine and is the subject of interest by NEICO. The land is located in the Manti-LaSal National Forest. NEICO is proposing Congressional Legislation for a coal lease exchange where the Alton property would be offered for a estimated 10,000 acres of coal lease around the Genwal Mine of Emery County, Utah.

--Lack of coal data will seriously limit BLM's ability to determine coal values in the vicinity of the Genwal Mine. No government funds are presently available for coal drilling in the unleased coal block and data acquisition will be expensive. We are presently working with NEICO to develop a drilling program the company might undertake.

ISSUES:

--Public interest may be difficult to ascertain since the Government may not be an apparent beneficiary to the proposed exchange. There are presently no unmitigatable Federal concerns regarding development of the leases in the Alton Coal project held by NEICO outside of the unsuitable area which is of concern to Utah International and not NEICO business. Economics would appear to be the driving force behind the exchange, not environmental concerns, although environmental concerns have been used to sell the exchange to the public.

--The issue of trading undeveloped Federal leases in Southern Utah for leases in Central Utah was explored in 1981, on an exchange proposed by Utah Power and Light. A large disparity of value was found between coal in Southern Utah and that in Central Utah resulting in rejection of the exchange. This condition is not believed to have changed in recent years. No economic coal transportation system presently exists for the Alton coal field and no known viable coal market exists which may result in the coal having little present value.

--NEICO has estimated 236 million recoverable tons of coal on the Alton property. The plan presently being reviewed estimates recovery of about 110 million tons. We have asked for resolution of this discrepancy but have not received a response.

--NEICO has estimated 80 million recoverable tons on the land adjacent to the Genwal Mine. This figure is highly speculative since a large part of the lands have little or no data.

--The precedence of allowing an exchange of Southern Utah surface minable coal leases for Central Utah underground minable coal leases may lead to an unmanageable work load of other potential exchanges. This would be of little value to the government and very depressing to the development of coal and other natural resources in Southern Utah.

--The BLM has had a viable competitive coal leasing program in Utah throughout the 1980s. This exchange may be a deterrent to continuing competitive leasing which has been a departmental objective. The tracts around the Genwal Mine appear to be potentially competitive.

--On July 18, 1985, Chairman of the Committee on Interior and Insular Affairs asked the General Accounting Office to review and evaluate the departmental procedures for administering the exchange of Federal coal lands with a specific request to ensure that:

1. Only coal of equal value is exchanged,
2. Environmental values are protected,
3. The exchanges are in the public interest,
4. That potentially competitive coal lands are not exchanged.

The proposed NEICO exchange may not meet some of these objectives.

--Draft Legislation proposed by NEICO would have Congress confirm that it is in the public interest to consummate the exchange, shifting impacts to an area where development would be by underground methods and away from lands proposed for development by surface mining operations in an area which is (1) in proximity to Bryce Canyon National Park; (2) subject to 9,000 acres designated as unsuitable for surface coal operations; (3) subject to State of Utah's AVF determination.

In addressing these points it is important to note that the unsuitable designation was made specifically to mitigate the visual impacts of surface mining on lands which are visible from the Park. The designation was made prior to the leases being assigned to NEICO. The government is presently negotiating with Utah International to determine damages associated with this determination. The remainder of the Alton leases have been determined by BLM to be suitable for development by surface mining methods.

The State of Utah has not made a final determination as to designation of AVFs. NEICO requested no further action at this time. Total acreage is expected to be quite small with little impact to total recoverable reserves. What impacts there are could be mitigated through an exchange process as already authorized by the USDI regulations. These type exchanges are commonplace in surface mining areas of Wyoming, Montana, etc.

STATUS:

--BLM has been working with NEICO on preparing a coal exploration license for the unexplored area near their Genwal Mine. Coordination with the Forest Service is continuing on all aspects of the potential exchange. The Utah State Office has agreed with NEICO to begin drafting a preliminary exchange agreement in the near future.

POSITION OF MAJOR CONSTITUENCIES:

--The Utah State legislature recently passed a resolution (HJR24) endorsing the proposed exchange. The measure passed unanimously in both the House and Senate. The Governor's position on the issue has not been determined.

--Environmental groups initially voiced support for the exchange, however, a recent meeting with the Wilderness Society indicated they are looking closely at portions of the selected lands which are heavily used for outdoor recreation.

--Representative Howard Nielson (R/UT) is reported to be willing to introduce legislation for the exchange.

The Salt Lake Tribune

Tuesday Morning—July 25, 1989
Section B Page 1

Bangerter Seeks Provisions on Coal-Lease Trade Bill

By Jim Woolf
Tribune Staff Writer

egislation implementing a coal-e trade involving land near ce Canyon National Park is ex-ted to be introduced in the next weeks by Rep. Howard C. Niel-.

But the bill could face problems ause it does not contain a provi-n sought by Gov. Norm Bangerter.

The trade would allow Nevada ectric Investment Co. (NEICO) to change its 26,339 acres of coal ses in the Alton coal field of Kane unty for approximately 10,000 res of coal leases in Emery Coun-'s Cr—all Canyon.

Conservationists have generally supported the trade because it would reduce pressure to develop a coal strip mine in the Alton field adjacent to Bryce Canyon National Park.

Gov. Bangerter has endorsed the project, providing the trade legislation contains two provisions.

The first is a statement that the NEICO situation presents a "unique set of environmental circumstances" and shouldn't set a precedence for other coal-lease trades.

The second is a requirement that NEICO make an "in lieu" payment to the state and federal government to compensate for "bonus bid" payments which would have been made if the Emery County coal had been leased in the normal manner. The amount of this payment has not been determined.

A draft of Rep. Nielsen's legislation has been circulated to Utah conservationists. The draft includes only the language about the trade being a unique situation. There's no mention of the "in lieu" payments.

"It's not in there and I think we have an argument to keep it out," said Charlie Vaughn, president of NEICO.

"That is that the state is going to receive additional revenues if the exchange goes through because the land that's going to be exchanged in Emery County is adjacent to an existing mine. We'll start mining immediately. The state will get revenue via the royalty route almost immediately," said Mr. Vaughn.

Requiring the "in lieu" payment would constitute "double payment," said Mr. Vaughn.

Besides, he said NEICO is attempting a lease trade, not a traditional lease, and shouldn't be bound by the regular leasing requirements.

Dianne Nielson, director of the Utah Division of Oil, Gas and Mining, said the governor feels "pretty strong" about the "in lieu" payment. She predicted that such a provision will be added to the legislation before Congress takes final action.

"Leases normally picked up in Crandall Canyon would be reviewed by the Bureau of Land Management for suitability and offered for public bidding. The leases would go to the bidder with highest bonus payment. All we're saying is that normally the property in Crandall Canyon would bring in a bonus bid. If they want to exchange, they ought to bring an in lieu payment similar to what the bonus bid would have been," she said.

J. Morgan Young, spokesman for Rep. Nielson, said the congressman hopes to introduce the coal-lease trade legislation before the end of July. Reps. James V. Hansen and Wayne Owens have agreed to co-sponsor the bill, he said.

Annual Production and Distribution of Coal in Utah, 1988

July 1989

Prepared by
F.R. Jahanbani

UTAH ENERGY OFFICE

13. Acquisitions and Exchanges:

In mid-December 1988, Nevada Power purchased the privately-held Genwal Coal Company and proposed a lease exchange to the Bureau of Land Management (BLM). Nevada Power is seeking to exchange the 18 thousand acres it owns on Alton Coal Field with 10 thousand acres of BLM land in proximity of the newly acquired Genwal lease holdings. A bill to this effect is now in Congress.

Should the construction of the Nevada Power's Harry Allen power plant stay on schedule, within the next seven years Utah should experience an analogous increase in production as it did during 1986 - 1988 with commissioning of IPP units 1 and 2.

On Monday, April 17, 1989, the Quitchupah Tract was auctioned off at the BLM office in Salt Lake City. Coastal States was the only bidder, paying $16.2 million for 84 million tons of recoverable reserve (RR). This is about 19.3 cents/ton of RR or $1,637/acre.

This may prove to be a vital acquisition for Sufco's future operation. The State of Utah should receive $1.62 million each year for the next five years or a total of $8.1 million for this transaction.